

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MICHAEL CHARLES WARD,

Petitioner,

v.

Civil Nos. 03-CV-72701/72858-DT
HONORABLE ARTHUR J. TARNOW
UNITED STATES DISTRICT JUDGE

HUGH WOLFENBARGER,

Respondent,

_____ /

OPINION AND ORDER DENYING MOTION FOR RECONSIDERATION

Michael Charles Ward, (“petitioner”), presently confined at the Chippewa Correctional Facility in Kincheloe, Michigan, filed an emergency motion to re-open his earlier habeas case, a supplement to the motion to re-open, and a motion for judgment on the pleading. Petitioner sought enforcement of this Court’s order of September 13, 2004 which granted petitioner habeas relief on his 1971 convictions for possession of marijuana, M.C.L.A. 335.153; and possession of lysergic acid diethylamide (LSD), M.C.L.A. 335.341(4)(c) and ordered that these two convictions be expunged from his record. On March 29, 2007, this Court denied petitioner’s motions to re-open the case and for summary judgment.

On October 23, 2007, this Court denied petitioner’s motion for reconsideration. On December 7, 2007, the Court denied petitioner a certificate of appealability but granted him leave to appeal *in forma pauperis*. On December 27, 2007, this Court denied petitioner’s motion for reconsideration of the Court’s order denying him a certificate of

appealability.

Petitioner subsequently filed an emergency “ex parte” motion to show cause the respondents why they should not be held in contempt of court and a related justified motion for an opinion and order finding respondent’s agent to be in contempt of court, in which he again sought enforcement of this Court’s order of September 13, 2004. On April 18, 2008, this Court denied petitioner’s ex parte motion to show cause and justified motion for opinion and order finding respondent’s agent in contempt of court. Before this Court is petitioner’s motion for reconsideration of that decision.

U.S. Dist.Ct. Rules, E.D. Mich. 7.1 (h) allows a party to file a motion for reconsideration. A motion for reconsideration should be granted if the movant demonstrates a palpable defect by which the court and the parties have been misled and that a different disposition of the case must result from a correction thereof. *Ward v. Wolfenbarger*, 340 F. Supp. 2d 773, 774 (E.D. Mich. 2004); *Hence v. Smith*, 49 F. Supp. 2d 547, 550-51 (E.D. Mich. 1999). A motion for reconsideration which merely presents “the same issues ruled upon by the Court, either expressly or by reasonable implication,” shall be denied. *Ward*, 340 F. Supp. 2d at 774.

Petitioner’s motions will be denied, because petitioner is merely presenting issues which were already ruled upon by this Court, either expressly or by reasonable implication, when the Court denied petitioner’s ex parte motion to show cause and his justified motion for opinion and order finding respondent’s agent in contempt of court. See *Hence v. Smith*, 49 F. Supp. 2d at 553. This Court further notes that the Sixth Circuit has affirmed this Court’s decision denying petitioner permission to reopen his

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habeas petition. See *Ward v. Wolfenbarger*, 342 Fed. Appx. 134 (6th Cir. 2009); *cert. den.* 130 S. Ct. 1291 (2010).

ORDER

Based upon the foregoing, IT IS ORDERED that the motion for reconsideration [Dkt. # 88] is **DENIED**.

S/Arthur J. Tarnow
Arthur J. Tarnow
United States District Judge

Dated: March 12, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 12, 2010, by electronic and/or ordinary mail.

S/Catherine A. Pickles
Judicial Secretary